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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
) CC Docket No. 95-116
Telephone Number Portability)
) RM 8535

REPLY OF COMCAST CELLULAR COMMUNICATIONS, INC.

Comcast Cellular Communications, Inc. ("Comcast"), by its attorneys, hereby submits this reply to Bell Atlantic's Response to Petitions for Reconsideration (the "Response") of the Commission's *Third Report and Order* in the above-referenced matter.^{1/} As described below, Bell Atlantic's Response mischaracterizes Comcast's Petition for Clarification.^{2/} As stated in its Petition, Comcast requests clarification only that incumbent local exchange carriers ("ILECs") are prohibited from recovering carrier-specific costs in charges related to interconnection, and does not seek exemption from legitimately-imposed query charges.^{3/}

In its Response, Bell Atlantic appears to believe that Comcast is arguing that other carriers should *never* pay any charges associated with number portability services.^{4/} Bell Atlantic's interpretation of Comcast's position is simply incorrect. Rather, Comcast urges the Commission to clarify that ILECs may not recover their carrier-specific costs through

^{1/} See Bell Atlantic's Response to Petitions for Reconsideration (responding to petitions for reconsideration of the Telephone Number Portability, *Third Report and Order*, CC Docket No. 95-116, RM 8535, rel. May 12, 1998 (the "*Third Report and Order*")).

^{2/} See Petition for Clarification of Comcast Cellular Communications, Inc. (the "Petition").

^{3/} *Id.* at 3-5.

^{4/} See Response at 3.

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interconnection charges or add-ons to interconnection charges.^{5/} This is a much narrower, and entirely appropriate, request.

As Comcast described in its Petition, preventing ILECs from loading costs onto interconnection functions that do not involve or require portability is consistent with the cost recovery provisions of the Communications Act of 1934, as amended.^{6/} Thus, the Commission should clarify that ILECs must recover number portability costs from customers using portability services, and not from interconnection charges. It is on this narrow issue that Comcast is seeking clarification.

Nowhere does Comcast ask the Commission to prohibit ILECs from recovering their demonstrated carrier-specific costs from carriers via query service charges as provided in the Commission's *Third Report and Order*.^{7/} In addition, Comcast acknowledged that there are some instances where the Commission will permit monthly surcharges to resellers and purchasers of unbundled switch ports.^{8/} Comcast did not request that the Commission reconsider its decision

^{5/} Petition at 1.

^{6/} *Id.* at 5. *See also* Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, *First Report and Order*, 11 FCC Rcd 15499, 15817 (1996) (expressing a preference for pricing based on economic cost).

^{7/} Thus, it is unnecessary for the Commission to "make it clear that when Bell Atlantic does a number portability database lookup to complete a call originated by a Comcast customer, Comcast must pay the query charge," as requested by Bell Atlantic. Response at 3. Of course, as Comcast has described in the Commission's proceedings on Bell Atlantic number portability tariffs, there must be limits on when Bell Atlantic and other carriers may impose query charges and on what those charges are to be. *See* Opposition of Comcast Cellular Communications, Inc. to Direct Case of Bell Atlantic, Number Portability Query Services, CC Docket No. 98-14, filed July 10, 1998.

^{8/} Petition at 5-6.

to permit these charges.^{9/} Rather, Comcast merely sought confirmation that ILEC surcharges upon carriers would not be permitted where ILEC number portability functionality is not provided.^{10/} For these reasons, the Commission should disregard Bell Atlantic's mischaracterization of Comcast's position concerning appropriate inter-carrier charges.

When considering these issues on reconsideration, the Commission also should recognize that it has not fully addressed how wireless providers and other non-ILECs will recover their carrier-specific costs. It is now apparent that the ILECs will recover their carrier-specific costs directly related to providing long-term number portability through a combination of end-user charges and query charges to other carriers,^{11/} but in practice this option is not available to non-ILEC carriers and, in particular, to wireless providers. Indeed, unlike ILECs, wireless providers currently are unable to provide query services to themselves or other carriers because the software necessary to perform such queries simply is unavailable.^{12/} As a result, wireless providers must recover all of their carrier-specific costs through end-user charges. Given the high proportion of fixed costs related to portability, the inability of wireless providers to recover any of their costs from other telecommunications providers means that the current cost recovery scheme creates a cost advantage for ILECs. Comcast submits that this is an important

^{9/} See *id.* at 5-6.

^{10/} *Id.*

^{11/} See 47 C.F.R. § 52.33.

^{12/} See generally Telephone Number Portability, Petition for Extension of Implementation Deadlines of the Cellular Telecommunications Industry Association, *Memorandum Opinion and Order*, CC Docket No. 95-116, DA 97-2579, rel. September 1, 1998.

consideration in any determination of whether the current cost recovery rules are competitively neutral, as required by Section 251(e).^{13/}

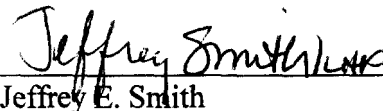
For the foregoing reasons, the Commission should disregard Bell Atlantic's mischaracterization of Comcast's position and clarify that ILECs cannot recover their carrier-specific costs directly related to providing number portability through charges or surcharges assessed on interconnection arrangements with local carriers.

Respectfully submitted,

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^{13/} 47 U.S.C. § 251(e).

CERTIFICATE OF SERVICE

I, Joslin M. Arnold, a secretary at Dow, Lohnes & Albertson, PLLC, do hereby certify that on this 14th day of September, 1998, a copy of the foregoing Reply of Comcast Cellular Communications, Inc. was sent by hand delivery where indicated and by first class mail to the following:

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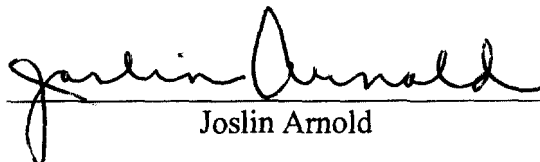
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